Practitioner's Docket No. 2002-IP-007905U1

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re application of: Dale E. Jamison

Application No: 10 / 765,510

Group No.: 3676

Fled: 01/27/2004

Examiner: Fuller, Bryan A

variable Density Treatment Fluids and Methods of Using Such Fluids In

Subterranean Formations

Commissioner for Patents P.O. Box 1460 Alexandria, VA 22313-1460

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT BEFORE MAILING DATE OF EITHER A FINAL ACTION OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))

NOTE: \$7 C.F.R. 1.87: "(a) An information disclosure statement shall be considered by the Office If filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prossoulion in the application, and it is accompanied by one of:

- (1) The statement specified in paragraph (a) of this section; or
- (2) The fee set forth in § 1.17(c)."

NOTE: "If a final action or notice of allowence is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowence mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10° (When using Express Mall, the Express Mell label number is mandatory; Express Mell cartification is optional.)

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	37 G.F.R. @ 1.80e)	37 C.F.R. § 1.10 *
	with sufficient postage as first class mail.	as "Express Mail Post Office to Addresses" Mailing Label No
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		Shiela Giller
_	1-27-06	Manature
		Sheila Gibbs
		(type or print name of person certifying)

" Only the date of fling § 1.9 will be the date used in a patent term adjustment calculation, although the date on any cartificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(i), Consider "Express Mail Post Office to Addresses" (§ 1.10) or facsimile transmission § 1.6(4) for the raphy to be accorded the earliest possible fling date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance (8-4)—page 1 of 3

NOTE: \$7 G.F.R. § 1.704(c): "A paper containing only an information disclosure statement in compliance with \$§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosocution (processing or examination) of the application under paragraphs (c)(0), (c)(0), (c)(0), or (c)(10) of the section if it is accompanied by a statement that each item of information contained in the information disclosure statement was cited in a communication from a foreign patent cities in a counterpart application and that this communication was not received by any inclutious designated in § 1.50(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

NOTE: "I information submitted during the period set forth in 37 C.F.R. 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become income and the information is being submitted prior to a final determination on patentiability by the Office. However, the information submitted with a certification can be used in a new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 708.07(s). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims ner based on the information submitted with the fee set forth in 37 C.F.R. § 1.17(s), the Office action shall not be made final." Notice of April 20, 1988 (1138 C.G. 37-41, 38).

WAPMING: "A polition for suspension of solion to allow applicant time to submit an information disclosure statement will be denied as falling to present good and sufficient resoons, since 37 C.F.R. § 1.87 provides adequate recourse for the timely submission of prior art for consideration by the examiner."

Notice of July 6, 1988 (1141 Q.G. 65). But see § 105(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(c) and in a request for continued examination (FICE) under § 1.114.

WARNING: No extension of time can be had under ST C.F.R. 1.136 (s) or (s) for filing an IDS. ST C.F.R. 1.87(j).

TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

- 1. The information disclosure statement transmitted herewith is being filed after three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but before the mailing date of either:
 - (1) a final action under § 1.113 or
 - (2) a notice of allowance under § 1.311,

whichever occurs first.

STATEMENT OR FEE

2. Accompanying this transmittal is

(check either A or B below)

A.

a statement as specified in 37 C.F.R. § 1.97(e).

OR

B. I the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c). (\$180.00).

(Transmittal of Information Disclosure Statement before Mailing Date of Ether a Final Action Or Notice of Allowance, IB-Q-page 2 of 3)

FEE PAYMENT

(complete this item, if applicable)

3. Applican of an inf	t elects the option to prometion disclosure s	say the fee set forth in 37 C.F.R. § 1.17(p) for submission tatement under § 1.97(c) (\$180.00);
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4.		
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A dupil	icate of this paper is	sttached.
		Canyle Roddy
		SIGNATURE OF PRACTITIONER
Reg. No. 36,	256	Craig W. Roddy
		(h)pe or print name of practitionar)
Tel. No.: (580)	251-3012	P.O. Box 1431
		P.O. Address
Customer No.:		Duncan, OK 73536-0440

(Transmittel of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance (8-4)—page 3 of 3)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re application of: Dale E. Jamison

Group No. 3676

Application No.: 10 / 765,510

Exemple: Fuller, Bryan A

Fled: 01/27/2004

For Variable Density Treatment Fluids and Methods of Using Such Fluids In

Subterranean Formationss

Commissioner for Patenta P.O. Box 1400

Alexandria, VA 22313-1488

STATEMENT FOR INFORMATION DISCLOSURE UNDER 37 C.F.R. § 1.97(e)

NOTE: A statement must state either: "(1) that each item of information contained in the information disclosure statement was alted in a communication from a foreign patent cilico in a counterpart foreign application not more than three manths prior to the filing of the information disclosure statement, or (2) that no item of information contained in the information disclosure statement was alted in a communication from a foreign patent cilico in a counterpart foreign application and to the innovincing of the paraon algoring the statement was known to any included designated in \$ 1.60(a) more than three months prior to the filing of the information disclosure statement." ST C.F.R. \$ 1.97(a).

Under the first eletement under § 1.87(s), it does not matter whether any individual with a duty of disclosure actually knew about any of the information cited before receiving the search report. The date on the communication by the foreign patent office begins the 3-month period in the same manner as the malling of an Office action starts a 3-month shortened statutory period for reply. See § 6098(5), M.P.E.P., 8th Edition.

* Only the date of filing § 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mell Post Office to Addressee" § 1.10) or faceimile transmission § 1.6(d) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Statement for Information Disclosure under S7 C.F.R. § 1.97(s) (9-49-page 1 of 5)

NOTE: "Section 1.97(a) makes it clear that a certification could contain either of two statements. One statement is that each item of information in an information disclosure statement was cited in a search report from a patent cilice outside the U.S. not more then three months prior to the filing date of the statement. Under this certification, it would not matter whether any includual with a duty actually knew about any of the information cited before receiving the search report. In the alternative, the certification could sta that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the inoutedge of the person signing the certification after making ressonable inquiry, was known to any individual having e duty to disclose more than three months prior to the filing of the statement." Notice of January & 1988, 1136 Q.G. 19-26, at 13. (emphasis acided). Thus: "If an item of information is submitted within three months of being cited in a communication from a foreign patent office in a counterpart foreign application, the certification can be properly made regardless of any incluidual's previous inoutedge of the information." Id., 1136 C.C. at 19. See § 600055, M.P.E.P., 8th Edition.

NOTE: "The date on the communication by the foreign patent office begins the 3-month period in the same manner as the making of an Office action starts a 3-month shortened statutory period for reply. If the communication contains two dates, the mailing date of the communication is the one which begins the 3-manth period. The date which begins the 3-manth period is not the date the communication w received by a foreign associate or the date it was received by a U.S. registered practitioner. Literature the statement will be considered to have been filed on the date the statement was received in the Office. or on an earlier date of mailing or transmission if accompanied by a properly executed cartificate of mailing or facelinite transmission under 37 CFR 1.8, or if it is in compliance with the provisions for "Express Mel" delivery under 37 C.F.R. 1.10." See § 608849, M.P.E.P., 8th Edition.

NOTE: "The certification can be based on present, good faith includedge about when information became known without a search of files being made." Thus, for example, the cartification of § 1.87(b) does not preclude the use of the certification in an application by corporations whose practitioners have over the years reviewed thousands of patents and technical publications, even though they are unaware of the relevance of any one thereof to the application. Notice of January 8, 1982, 1135 Q.G. 13-18, at 18.

See & 6098(%, M.P.E.P., 8th Edition:

"Il an information disclosure statement includes a copy of a dated communication from a foreign patent office which clearly shows that the statement is being submitted within 3 months of the dat on the communication, the copy will be accepted as the required communication. It will be assumed, in the absence of evidence to the contrary, that the communication was for a counterpart foreign

'In the alternative, a statement can be made if no item of information contained in the information declosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the person signing the statement after making reasonable inquiry, neither was it known to any individual having a duty to disclose more than 3 months prior to the filing

NOTE: A copy of the foreign search report need not be submitted with the certification. Notice of April 20,

NOTE: "The phrase fafter making reasonable inquiry" makes it clear that the includual making the statement has a duty to make reasonable inquiry regarding the facts that are being certified. The statement can be made by a registered practitioner who represents a foreign client and who relies on atsements made by the foreign client as to the date the information first became known. A registered practitioner who receives information from a client without being informed whether the information was known for more than three months, however, cannot make the statement without making reasonable inquiry. For example, if an inventor gave a publication to the attorney prosecuting an application with the intent that it be cited to the Office, the attorney should inquire as to when that inventor became aware of the publication and should not submit a statement under 37 C.F.R. 1.97(s)(2) to the Office until a satisfactory response is received. The statement can be based on present, good faith knowledge about when information became known without a search of files being made." Notice of April 20, 1992 (1138)

See § 8098(5), M.P.E.P., Sh Edition.

NOTE: "Although it is recognized that an individual actually becomes aware of the information in the communication from a foreign patent office sometime after it was mailed, the mailing date of such a communication, if it occurs prior to a limit everences of the same information, would determine the de for filing of an information disclosure statement without a fee" in a cartification procedure under § 1.97%. Notice of January 2, 1992, 1135 O.G. 13-25, at 19 (emphasis added).

(Statement for Information Disclosure under 37 C.F.R. § 1.97(a) [5-45-page 2 of 5]

- NOTE: The mere absence of an item of information from a foreign patent office communication is not intended to represent an opportunity to dainy the submission of a item known more than three months prior to the filing of an information disclosure statement to an individual having the duty of disclosure under § 1.58, 62 Fed. Reg. 52,131, 53,150 (Oct. 10, 1997).
- NOTE: The IDS is considered filed as of the date R is received in the PTO, or on an earlier date of maling or transmission if done so with a properly executed certificate of maling or facetimile transmission under 37 C.F.R. § 1.8, or if R is in compliance with the provisions for "Express Med" delivery under 37 C.F.R. § 1.10. See § 600869, M.P.E.P., See Edition.
- NOTE: "The certification under § 1.97(a) should be made by a person who has innovinded of the facts being certified. The certification can be made by a practitioner who represents a foreign client and who relies on statements made by the foreign client as to the date the information first became known. A practitioner who receives information from a client without being informed whether the information was known for more than three months, however, cannot make the certification without making reasonable inquiry."

 Notice of January 8, 1988, 1136 Q.G. 15-25 at 18.
- NOTE: "The term counterpart foreign patent application means that a claim for priority has been made in either the U.S. application or a foreign application based on the other, or that the declosures of the U.S. and foreign patent applications are substantively identical (s.g., an application filed in the European Patent Office claiming the same U.K. priority as claimed in the U.S. application)." Notice of April 20, 1992 (1138 O.G. 37-41, 39). See § 6000(6), M.P.E.P., 8th Edition.
- NOTE: "Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor." ST C.F.R. § 1.58(4) and

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application:
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." S7 C.F.R. § 1.58(d.)

IDENTIFICATION OF INFORMATION DISCLOSURE STATEMENT FOR WHICH THIS STATEMENT IS BEING MADE

1.	This s	statement is being made for the information Disclosure Statement
		accompanying this statement.
		filed (date)
		•

STATEMENT

MOTE: A statement under 37 C.F.R. § 1.97(a) need not be in the form of an cath or a declaration under 37 C.F.R. § 1.98. A statement under 37 C.F.R. § 1.97(a) by a registered practitioner or any other individual that the statement was filed within the 3-month period of either the first citation by a foreign patent office or first discovery of the information will be accepted as dispositive of compliance with this provision in the absence of evidence to the contrary. § 6098(5), M.P.E.P., 8th Edition.

(Statement for information Disclosure under 37 C.F.R. § 1.97(a) (8-45-page 3 of 5)

2. 1,	the	person(s) signing below state:
		that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement, 37 C.F.R. § 1.97(e)(1).
NO1	•	The three manth period starts from the mailing date of the foreign patent office communication. Notice of January 8, 1998, 1136 C.G. 13-26 at 18. The mailing date is the "date on the communication by the foreign patent office." Notice of April 20, 1992 (1138 C.G. 37-41, 38).
		OR .
	3	was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge, after making reasonable inquiry, no item of information contained in this information disclosure statement was known to any individual designated in § 1.56(d) more than three months prior to the filing of the information disclosure statement. 37 C.F.R. § 1.97(e)(2).
NOT	T.	The time at which information 'was known to any incluidual designated in 37 G.F.R. 1.50(c)' is the time when the information was discovered in association with the application even if awareness of the naturally came later." Notice of April 20, 1982 (1.158 C.G. 37-41, 40), Section 6098(5), M.P.E.P., 8th Edition.
	H	DENTIFICATION OF PERSON(S) MAKING THIS STATEMENT
3. TI	he p	person making this statement is
		(check each applicable item)
(a)		the inventor(s) who signs below
		SIGNATURE OF INVENTOR
		(type name of inventor who is signing)
(b)	a	a person who is substantively involved in the preparation or prosecution of the application, and who is associated with the inventor, with the assignee, or with anyone to whom there is an obligation to assign the application (37 C.F.R. § 1.56(c)) and who signs below.
		SIGNATURE OF PERSON MAKING STATEMENT
		(type name of person who is signing)
		Address of person who is signing

(Statement for Information Disclosure under 37 C.F.R. § 1.97(a) (8-49-page 4 of 5)

(c)	X	the practitioner who signs below on the basis of the information:
		(check each applicable item)
		supplied by the inventor(s).
		supplied by an individual designated in § 1.56(c).
		in the practitioner's file.

Reg. No.: 36,256

Tel. No. (580) 251-3012

Customer No.:

Craig W. Roddy

(type or print name of practitioner)

P.O. Box 1431

P.O. Address

Duncan, OK 73536-0440

(Statement for Information Disclosure under 37 C.F.R. § 1.97(a) (8-48-page 5 of 5)

PTO/SB/08A (07-05)

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

I	Complete il Known			
Application Number		10/765,510	_	
Ì	Filing Date	01/27/2004		
I	First Named Inventor	Dale E. Jamison	_	
ľ	Art Unit	1734		
ľ	Examiner Name	Fuller, Bryan A.		
İ	Attorney Docket Number	2002-IP-007905LI1	_	

U. S. PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ^{2 (# known)}	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	
	1	US- 2005/0284641 A1	12/29/2005	Watkins et al.		
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FOREIGN PATENT DOCUMENTS							
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Examiner	Date	
Signature	Consid	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. Applicant's unique citation designation number (optional). See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.